



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

May 17, 1995

Ms. Sandra C. Joseph
Open Records Counsel/Disclosure Officer
Comptroller of Public Accounts
P.O. Box 13528
Austin, Texas 78711-3528

OR95-283

Dear Ms. Joseph:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 32795.

The Comptroller of Public Accounts (the "comptroller") received an open records request from a woman asking for the name of the individual who filed a complaint against her husband and for the date of the complaint. You state that the complaint contains allegations of activity which would constitute a violation of the Tax Code. You contend that the comptroller may withhold from public disclosure the complainant's identity and any information which tends to reveal the complainant's identity pursuant to the informer's privilege as incorporated by section 552.101 of the Government Code. You have submitted for our review a marked copy of the complaint at issue, which reflects the information you contend may be withheld from disclosure.

Section 552.101 excepts from public disclosure information "considered to be confidential by law, either constitutional, statutory, or by judicial decision." The informer's privilege aspect of section 552.101 protects the identity of persons who report possible violations of the law to the officials charged with enforcing that law. Open Records Decision No. 515 (1988) at 5. Under the informer's privilege, the names and addresses of informers may be withheld. *See* Open Records Decision No. 355 (1982). In addition, if the content of the informer's communication would tend to reveal the informer's identity, the privilege protects the communication itself, to the extent necessary to protect the informer's anonymity. Open Records Decision No. 549 (1990) at 5. The informer's privilege does not, however, apply when the identity of the informer is known to the person who would have cause to resent the communication.

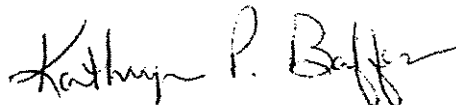
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Open Records Decision No. 208 (1978) at 1. The privilege protects information reported to administrative-agency officials having a duty to enforce particular laws, as well as to law-enforcement officers. Attorney General Opinion MW-575 (1982); Open Records Decision Nos. 515 (1988) at 2, 285 (1981), 279 (1981).

The comptroller is the administrative official with a duty of inspection and enforcement with respect to the Tax Code. *See* Tax Code § 111.001. The comptroller may impose civil or criminal penalties for violations of the Tax Code. *See id.* You explain that the person whose identity the comptroller seeks to protect filed a complaint that alleged activity which, if true, may have constituted a violation of the Tax Code. Given this information, we conclude that the comptroller may withhold from disclosure the information that identifies the individual who filed the complaint pursuant to the informer's privilege as incorporated by section 552.101 of the Government Code. The comptroller must disclose the remainder of the information on the complaint.

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination under section 552.301 regarding any other records. If you have any questions about this ruling, please contact our office.

Yours very truly,



Kathryn P. Baffes
Assistant Attorney General
Open Government Section

KPB/KHG/rho

Ref.: ID# 32795

Enclosures: Submitted documents

cc: Ms. Edith K. Jester
Gold 'N Trash
108 U.S. Highway 69-N
Whitewright, Texas 75491
(w/o enclosures)